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November 11, 2005

Honorable Patti B. Saris
United States District Court
District of Massachusetts
One Courthouse Way, Courtroom 13
Boston, MA 02210

Re: In re Pharmaceutical Industry AWP Litigation
Pending Motions in MDL 1456

Dear Judge Saris:

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U.S. DISTRICT COURT
DISTRICT OF MASS.

We write on behalf of Plaintiffs to bring to your attention certain motions that have been pending for some time with respect to the Track One and Track Two discovery schedules in the above-referenced consolidated class action.

Case Management Order No. 13 set forth the following deadlines associated with expert work for Track One: October 1, 2005, for Plaintiffs to file expert liability reports; November 15, 2005, for Defendants to file their reports; and January 15, 2006, for expert depositions to be completed. On August 31, 2005, Plaintiffs filed with Your Honor a Motion to Extend Expert Witness Disclosures and Discovery, arguing that Defendants' delay in producing certain data has prevented Dr. Hartman from completing his liability report. The Court assigned Docket No. 1694 to this motion.

Case Management Order No. 14 established December 3, 2005, as the close of fact discovery for Track Two, along with an expert discovery schedule that begins with the disclosure of Plaintiffs' Track Two liability expert reports on January 15, 2006. On September 28, 2005, Plaintiffs filed with Your Honor a Motion to Modify the Track Two Discovery Schedule, arguing that delays by several Track Two Defendants in producing documents and information has made the December 3 cutoff date unworkable. The Court assigned Docket No. 1741 to this motion.¹

¹ This motion also requests that the Court establish a schedule for the identification and discovery of additional Track Two class representatives, like the Court did in its August 16 Track One Class Certification Order with respect to additional Track One class representatives. In their opposition, Defendants cross-move to establish a similar procedure but with due dates that differ from those proposed by Plaintiffs.

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On October 11, 2005, Magistrate Judge Bowler's docketing clerk set the above motions for hearing on November 9, 2005, along with several other discovery motions. At the hearing yesterday, Magistrate Judge Bowler explained that an error was made in scheduling the above motions for hearing before her and that, because the motions pertain to scheduling, they should be heard by Your Honor.

Given the passage of time since these motions were filed, the rapidly approaching Track Two December 3rd discovery cutoff date, and the fact that Dr. Hartman cannot complete his Track One liability report until Defendants provide additional data, there is now an urgent need to have these motions heard. Accordingly, Plaintiffs respectfully request that the Court set these motions for hearing at the earliest possible time.²

Respectfully,

HAGENS BERMAN SOBOL SHAPIRO LLP

A handwritten signature in black ink, appearing to read 'T. Sobol', is written over the firm name.

Thomas M. Sobol

cc: All Counsel via File & Serve

² Plaintiffs also believe that, at the time the Court hears argument on Docket Nos. 1694 and 1741, that it is sensible for the Court to also consider two additional motions that are closely related to Plaintiffs' Motion to Extend Expert Disclosures and Discovery: (i) Plaintiffs' Motion to Compel Production of IMS Data and Reports (Docket No. 1794), and (ii) Track One Defendants' Motion to Preclude Plaintiffs' Expert Evidence on Liability or for Other Sanctions (Docket No. 1769). Based on representations that Defendants made to Magistrate Judge Bowler, we believe that Defendants would agree with this proposal.